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United States Attorney
Eastern District of California
Of Counsel

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

BANK OF AMERICA, N.A., as successor
by merger to LaSalle Bank National
Association, as trustee for the Merrill Lynch
First Franklin Mortgage Loan Trust,
Mortgage Loan Asset-Backed Certificates,
Series 2007-H-1 and as trustee for the
Merrill Lynch First Franklin Mortgage Loan
Trust, Series 2007-A Mortgage Loan Asset-
Backed Certificates.

Plaintiff,

v.

NIKOLAY YAKIMENKO, an individual;
JANETA ASLANYAN, an individual;
FIRST AMERICAN TITLE INSURANCE
CO., a California corporation; GMAC
MORTGAGE, LLC, a Delaware
corporation; and DOES 1 through 200,
inclusive,

Defendants.

Civil No. 2:09-cv-02865-MCE-GGH

STIPULATION REGARDING PRIORITY
BETWEEN THE UNITED STATES, U.S.
Bank N.A. as successor trustee, and GMAC
MORTGAGE, LLC

1 Plaintiff, U.S. Bank N.A., as successor trustee for BANK OF AMERICA, N.A., as
2 successor by merger to LaSalle Bank National Association, as trustee for the Merrill Lynch First
3 Franklin Mortgage Loan Trust, Mortgage Loan Asset-Backed Certificates, Series 2007-H-1 and
4 as trustee for the Merrill Lynch First Franklin Mortgage Loan Trust, Series 2007-A Mortgage
5 Loan Asset-Backed Certificates (“Plaintiff”), defendant GMAC MORTGAGE, LLC (“GMAC”)
6 and defendant United States hereby stipulate and agree as follows:

7 1. This stipulation concerns the real property commonly known as 9195 Pinehurst
8 Drive, City of Roseville, County of Placer, State of California (hereinafter “Subject Property”)
9 and is legally described as follows:

10 “Lot 78, as shown on the Map entitled, “Tract #881 Morgan Creek
11 Village B”, filed for record September 20, 2002, in Book Y” of
12 Maps, Page 36 as amended by the certain “Certificate of
13 Correction”, recorded January 2, 2003 as Document No. 2003-
14 0000189 and recorded October 8, 2003 as Document No. 2003-
15 0173761, Official Records.

16 EXCEPTING THEREFROM any and all oil, gas and other
17 hydrocarbon and all other minerals of whatever kind or character
18 which are upon, in, under or may be produced from the property;
19 provided however, that unless the consent of the surface owner is
20 further obtained, Grantor, its successors and assigns, shall not enter
21 the surface or in or through the upper 500 feet of the subsurface in
22 the exercise of such mineral rights, as reserved in the certain Grant
Deed recorded October 25, 2002 as Document No. 2002-131573,
Official Records.

TOGETHER WITH a non-exclusive easement for ingress and
egress over and across a portion of Area 1, as shown on that certain
Record of Survey filed January 15, 2002, in Book 17 of Surveys as
Document No. 2002-0105450, and re-recorded September 19,
2002 as Document No. 2002-0111446, Official Records.”

2. On or about June 29, 2007, the Plaintiff’s predecessor in interest, First Franklin
Financial Corporation, recorded two Deeds of Trust, dated June 11, 2007, encumbering the
Subject Property in the Official Records of the County of Placer as Instrument Numbers 2007-
0065335-00 and 2007-0065336-00. The loans secured by the Deeds of Trust were obtained by

1 defendant Nikolay Yakimenko, on or about June 11, 2007 from First Franklin Financial
2 Corporation, in the principal amounts of \$940,000.00 and \$176,250.00, respectively. Plaintiff
3 currently holds the beneficial interest under the loans secured by the aforementioned Deeds of
4 Trust.

5 3. On or about November 13, 2008, defendant GMAC recorded a Deed of Trust,
6 dated October 31, 2008, encumbering the Subject Property in the Official Records of the County
7 of Placer as Instrument Number 2008-0088936-00. The loan secured by the Deed of Trust was
8 obtained by defendant Janeta Aslanyan, on or about October 31, 2008 from GMAC Mortgage,
9 LLC, in the principal amount of \$417,000.00. Defendant GMAC currently holds the beneficial
10 interest under the loan secured by the aforementioned Deed of Trust.

11 4. On or about April 21, 2009, a delegate of the Secretary of the Treasury recorded
12 in the Official Records of the County of Placer, as Instrument Number 2009-0032394-00, a
13 Notice of Federal Tax Lien with respect to the assessments made against defendant Janeta
14 Aslanyan for the tax years 2006 and 2007, which attach to all property and rights to property of
15 defendant Janeta Aslanyan.

16 5. By way of federal tax lien, a notice of which was recorded in the Official Records
17 of the County of Placer, the United States has an interest in the Subject Property to the extent
18 that defendant Janeta Aslanyan has an interest in the Subject Property.

19 6. The interest created by the Deeds of Trust described in paragraph 2, above, by
20 the Plaintiff on the Subject Property are senior to the United States' interest in the Subject
21 Property.
22

1 7. The interest created by the Deed of Trust described in paragraph 3, above, by
2 defendant GMAC on the Subject Property is senior to the United States' interest in the Subject
3 Property.

4 8. This stipulation does not resolve the priority in the Subject Property between the
5 Plaintiff and defendant GMAC.

6 9. The Plaintiff and defendant GMAC do not seek damages from the United States.
7 The Plaintiff and defendant GMAC shall not seek costs and fees from the United States and the
8 United States shall bear its own costs and fees.

9 10. This stipulation does not affect any rights the Plaintiff and defendant GMAC may
10 have to foreclose the Deeds of Trust on the Subject Property.

11 11. Therefore, the Plaintiff's Deeds of Trust, set forth in paragraph 2 of this
12 stipulation, and defendant GMAC's Deed of Trust, set forth in paragraph 3 of this stipulation,
13 shall be completely satisfied before the United States' federal tax lien, set forth in paragraph 4 of
14 this stipulation, including any Court order to foreclose on the Subject Property or otherwise
orders the sale of the Subject Property.

15 12. In the event that the Plaintiff does foreclose on the Subject Property, this
16 stipulation does not affect any rights the United States has under 26 U.S.C. § 7425.

17 13. Having resolved the United States' lien priority in relation to the Plaintiff and
18 defendant GMAC, the United States shall not be required to continue to participate in this action.

19 WHEREFORE the Plaintiff, defendant GMAC and the United States respectfully request
20 that this stipulation be approved and that the Court enter an Order approving the stipulation.

21 ///

22 ///

1 IT IS SO STIPULATED.

2 DATED: May 9, 2012

3 WOLFE & WYMAN LLP

4 By: /s/Alice M. Dostalova-Busick
5 STUART B. WOLFE
ALICE M. DOSTALOVA-BUSICK

6 Attorneys for Plaintiff

7 U.S. Bank N.A. as successor trustee for BANK OF
8 AMERICA, N.A., as successor by merger to La Salle
9 Bank National Association, as trustee for the Merrill
Lynch First Franklin Mortgage Loan Trust, Mortgage
Loan Asset-Backed Certificates, Series 2007-H-1 and
as trustee for the Merrill Lynch First Franklin
Mortgage Loan Trust, Series 2007-A Mortgage Loan
Asset-Backed Certificates

10 DATED: May 9, 2012

11 CAMPBELL, WARBURTON, FITZSIMMONS,
SMITH, MENDELL & PASTORE

12 By: /s/Lisa Jeong Cummins
LISA JEONG CUMMINS

13 Attorneys for Defendant
GMAC MORTGAGE, LLC

14 DATED: May 9, 2012

15 KATHRYN M. KENEALLY
Assistant Attorney General

16 /s/Andy R. Camacho
ANDY R. CAMACHO
17 Trial Attorney, Tax Division
U.S. Department of Justice
18 P.O. Box 683
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19 Attorneys for United States of America

20 BENJAMIN B. WAGNER
United States Attorney
21 Eastern District of California
Of Counsel

1 **ORDER**

2 The Court, having reviewed the foregoing stipulation, and good cause appearing
3 therefore, IT IS HEREBY ORDERED:

4 (1) That the Plaintiff's Deeds of Trust, set forth in paragraph 2 of this Stipulation, and
5 the defendant GMAC's Deed of Trust, set forth in paragraph 3 of this Stipulation, are senior to
6 the interest of the United States on the Subject Property, and shall be completely satisfied before
7 the United States' tax lien, set forth in paragraph 4 of this Stipulation, including any Court orders
8 of foreclosure or sale of the Subject Property;

9 (2) The stipulation does not resolve the priority in the Subject Property between the
10 Plaintiff and defendant GMAC.

11 (3) The stipulation does not affect any rights the Plaintiff and defendant GMAC may
12 have to foreclose the Deeds of Trust on the Subject Property.


13 (4) In the event that the Plaintiff does foreclose on the Subject Property, the
14 stipulation does not affect any rights the United States has under 26 U.S.C. § 7425;

15 (5) The Plaintiff and defendant GMAC shall not seek costs or fees from the United
16 States and the United States shall bear its own costs and fees; and

17 (6) Having resolved the United States' lien priority in relation to the Plaintiff and
18 defendant GMAC, the United States shall not be required to continue to participate in this action.

19 IT IS SO ORDERED.

20 Dated: May 11, 2012

21 
22 MORRISON C. ENGLAND, JR.
UNITED STATES DISTRICT JUDGE